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Inspections, Compliance, Enforcement, and Criminal Investigations

January 20, 2011: Dietary Supplements Manufacturer Pleads Guilty



Food and Drug Administration Office of Criminal Investigations

U.S. Department of Justice Press Release

**For Immediate Release
January 20, 2011**

**United States Attorney
District of Idaho
Contact: Pamela Bearg
Public Information Officer
(208) 334-1211**

Tribravus Enterprises, LLC, dba IForce Nutrition, pled guilty today in federal court to causing purported dietary supplements to be unlawfully manufactured and distributed in interstate commerce, the U.S. Attorney's Office announced. According to the plea agreement, the products, called "17aPheraFLEX," "Dymethazine" and "Methadrol," contained synthetic steroids and were unapproved drugs under the Food, Drug and Cosmetic Act.

The charge, which carries a maximum fine of \$500,000, is a felony because the defendant acted with the intent to defraud or mislead. According to the plea agreement, the parties have agreed to recommend that the defendant pay a \$125,000 fine. Also as part of the plea, Tribravus has agreed to implement a testing protocol for its products to ensure future products sold as dietary supplements do not contain synthetic steroids.

Tribravus Enterprises is organized in Arizona and does business as IForce Nutrition in Vista, California. The charges were brought in federal court in Idaho because Tribravus delivered its products to a retail company located in Idaho for further distribution throughout the United States.

The case was investigated by the Food and Drug Administration, Office of Criminal Investigations.

Sentencing is set for April 20, 2011, in Boise before Chief United States District Judge B.

Lynn Winmill.

#####

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U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993
Ph. 1-888-INFO-FDA (1-888-463-6332)

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Inspections, Compliance, Enforcement, and Criminal Investigations

May 5, 2011: Dietary Supplements Manufacturer Sentenced



Food and Drug Administration Office of Criminal Investigations

U.S. Department of Justice Press Release

**For Immediate Release
May 5, 2011**

**United States Attorney
District of Idaho
Contact: Pamela Bearg
Public Information Officer
(208) 334-1211**

Tribavus Enterprises, LLC, dba IForce Nutrition, was sentenced today in federal court in Boise for causing purported dietary supplements to be unlawfully manufactured and distributed in interstate commerce, U.S. Attorney Wendy J. Olson announced. Chief U.S. District Judge B. Lynn Winnill sentenced Tribavus to three years probation; a \$125,000 fine, payable in installments, and a \$400 special assessment. As conditions of probation, the court ordered future financial disclosures and a monitoring and testing protocol that includes testing of all products distributed by Tribavus / IForce for banned steroids.

According to the plea agreement, Tribavus / IForce distributed the products “17aPheraFLEX,” “Dymethazine” and “Methadrol” as dietary supplements. The FDA found that these products contained synthetic steroids, known as “DMT” or “Madol” and “Superdrol.” Thus they were not dietary supplements but rather unapproved drugs under the Food, Drug and Cosmetic Act. Tribavus Enterprises agreed to pay the \$125,000 fine and implement a testing protocol for its products to ensure future products sold as dietary supplements do not contain synthetic steroids.

Tribavus Enterprises is organized in Arizona and does business as IForce Nutrition in Vista, California. The charges were brought in federal court in Idaho because Tribavus delivered its products to a retail company located in Idaho for further distribution throughout the United States.

The case was investigated by the Food and Drug Administration, Office of Criminal Investigations.

Page Last Updated: 05/06/2011

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U.S. Department of **Health & Human Services**

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U.S. COURTS

JAN 14 2011

Rcvd _____ Filed _____ Time _____
ELIZABETH A. SMITH
CLERK, DISTRICT OF IDAHO

WENDY J. OLSON, IDAHO STATE BAR 7634
UNITED STATES ATTORNEY
SYRENA C. HARGROVE, IDAHO STATE BAR 6213
KEVIN T. MALONEY, IDAHO STATE BAR 5095
ASSISTANT UNITED STATES ATTORNEYS
DISTRICT OF IDAHO
800 PARK BLVD., SUITE 600
BOISE, IDAHO 83712
TELEPHONE: (208) 334-1211
FACSIMILE: (208)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TRIBRAVUS ENTERPRISES, LLC,
d.b.a. IFORCE NUTRITION,

Defendant.

Case No.: **CR 11-0018-SBLW**

INFORMATION

21 U.S.C. § 331(d)
21 U.S.C. § 333(a)(2)

The United States Attorney charges:

Count One

**Introduction and Delivery for Introduction of Unapproved New Drugs
into Interstate Commerce with the Intent to Defraud and Mislead
21 U.S.C. §§ 331(d) and 333(a)(2)**

Beginning in approximately July 2007, and continuing until September 24, 2009,
Tribravus Enterprises LLC, d/b/a IForce Nutrition, (hereinafter jointly "Tribravus / IForce")
knowingly caused to be manufactured and distributed in interstate commerce the purported
dietary supplements, "17aPheraFLEX," "Dymethazine," and "Methadrol."

"17aPheraFLEX" contained the synthetic steroid desoxymethyltestosterone, also known
as "DMT" and "Madol." "Dymethazine" and "Methadrol" both contained the synthetic steroid
methasterone, also known as methasteron and methyldrostanolone, and commonly referred to in

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the industry as "Superdrol." Thus, these products did not qualify as dietary supplements as defined at 21 U.S.C. § 321(ff).

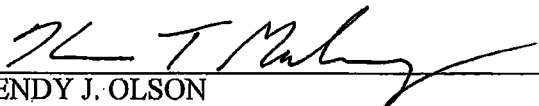
Because Tribavus / IForce intended these products to affect the structure and function of the human body, they were actually drugs, as defined at 21 U.S.C. § 321(g)(1)(c). Moreover, they were also "new drugs" as defined at 21 U.S.C. § 321(p), and lacked the approved New Drug Application required by 21 U.S.C. § 355.

During this time, Tribavus / IForce, acting with the intent to defraud and mislead customers and the federal Food and Drug Administration, delivered for introduction in interstate commerce "17aPheraFLEX," "Dymethazine," and "Methadrol" by shipping these new drugs from California to a retailer's warehouses in Boise, Idaho and causing the shipping of these new drugs from the warehouses in Boise, Idaho to other states.

These actions violated 21 U.S.C. §§ 331(d) and 333(a)(2).

Respectfully submitted this 14th day of January, 2011.

WENDY J. OLSON
UNITED STATES ATTORNEY
By:


WENDY J. OLSON
United States Attorney
SYRENA C. HARGROVE
Assistant United States Attorney
KEVIN T. MALONEY
Assistant United States Attorney

U.S. COURTS

CR 11-0018-S BLW

JAN 14 2011

CRIMINAL COVERSHEET

Rcvd _____ Filed _____ Time _____

ELIZABETH A. SMITH

CLERK, DISTRICT OF IDAHO
DEFENDANT'S NAME:Tribavus Enterprises, LLC
d.b.a. IForce NutritionDEFENSE ATTORNEY: Rick Collins
Address: Collins, McDonald & Gann, PC
138 Mineola Boulevard
Mineola, New York 11501

Telephone No.: (516) 294-0300

INVESTIGATIVE AGENT: Rob Blenkinsop
Telephone No.: (208) 433-3557
AGENCY: FDA

JUVENILE: No

PUBLIC or SEALED: Public

SERVICE TYPE: Notice
(Summons or Warrant or
Notice (If Superseding))
Please issue to defense counsel
ISSUE: YesINTERPRETER: No
If YES, language:CASE INFORMATION: (Miscellaneous, CVB, other related
defendants/case numbers)

RELATED COMPLAINT:

CASE NUMBER:

CRIMINAL CHARGING INFORMATION

CHARGING DOCUMENT: InformationFelony: YesCounty of Offense: AdaClass A Misdemeanor: NoEstimated Trial Time: 5 daysClass B or C Misdemeanor: No
(Petty Offense)

STATUTE (Title and Section(s))	COUNT/ FORFEITURE ALLEGATION	BRIEF DESCRIPTION	PENALTIES (Include Supervised Release and Special Assessment)
21 U.S.C. §§ 331(d) and 333(a)(2) 18 U.S.C. § 3571	1	Introduction and Delivery for Introduction of Unapproved New Drugs Into Interstate Commerce with the Intent to Defraud and Mislead	A maximum fine of \$500,000; a maximum term of supervised release of three years; and a mandatory special assessment of \$400

Date: January 14, 2010Assistant U.S. Attorney: Wendy J. Olson ^{KTM} for WJOTelephone No.: 334-1211

WENDY J. OLSON, IDAHO STATE BAR NO. 7634
UNITED STATES ATTORNEY
SYRENA C. HARGROVE
KEVIN MALONEY
ASSISTANTS UNITED STATES ATTORNEY
DISTRICT OF IDAHO
800 E. PARK BOULEVARD, SUITE 600
BOISE, IDAHO 83712-9903
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FACSIMILE: (208) 334-1413

U.S. COURTS

JAN 14 2011

Rcvd _____ Filed _____ Time _____
ELIZABETH A. SMITH
CLERK, DISTRICT OF IDAHO

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TRIBRAVUS ENTERPRISES, LLC,
d/b/a IFORCE NUTRITION,

Defendant.

Case No.

RULE 11 PLEA AGREEMENT

I. GUILTY PLEA

A. Summary of Terms. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) and (B), the defendant, the attorney for the defendant, and the Government¹ agree that the defendant will waive its right to indictment and plead guilty to Count One of the Information, which charges the defendant with introduction and delivery for introduction of unapproved new drugs into interstate commerce with the intent to defraud and mislead, in violation of 21 U.S.C. §§ 331(d), 333(a)(2) .

This plea is voluntary and did not result from force, threats, or promises, other than any promise made in this Plea Agreement. Upon acceptance of the defendant's guilty plea, and the defendant's full compliance with the other terms of this Agreement, the Government, under Federal Rule of Criminal Procedure 11(c)(1)(B), will recommend the sentence set forth in paragraph VB below and will not bring, under Federal Rule of Criminal Procedure 11(c)(1)(A), any other charges against the defendant or its principals arising out of information currently known to the Government resulting from its investigation into the manufacture and distribution of purported dietary supplements that were actually drugs through an online distributor headquartered in Meridian, Idaho. The defendant agrees that the Court may consider uncharged "relevant conduct" in arriving at an appropriate sentence pursuant to U.S.S.G. § 1B1.3.

B. Oath. The defendant will be placed under oath at the plea hearing. The Government may use any statement that the defendant makes under oath against the defendant in a prosecution for perjury or false statement.

¹ The word "Government" in this Agreement refers to the United States Attorney for the District of Idaho.

II. WAIVER OF CONSTITUTIONAL RIGHTS AT TRIAL

The defendant understands that by pleading guilty, it waives the following rights: 1) the right to plead not guilty to the offense charged against the defendant and to persist in that plea; 2) the right to a trial by jury, at which the defendant would be presumed innocent and the burden would be on the Government to prove the defendant's guilt beyond a reasonable doubt; 3) the right to have the jury agree unanimously that the defendant was guilty of the offense; 4) the right, at trial, to confront and cross-examine adverse witnesses; 5) the right to present evidence and to compel the attendance of witnesses; and 6) the right not to testify or present evidence without having that held against the defendant. If the District Court accepts the defendant's guilty plea, there will be no trial.

III. NATURE OF THE CHARGES

A. Elements of the Crime. The elements of the crime of knowingly and unlawfully causing to be manufactured and distributed in interstate commerce purported dietary supplements which were, in fact, drugs that were not approved by the Food and Drug Administration, in violation of 21 U.S.C. §§ 331(d), 333(a)(2) as charged in Count One of the Information, are as follows:

1. The products "17aPheraFLEX", "Dymethazine" and "Methadrol" are new drugs as defined at 21 U.S.C. § 321(p);
2. The products "17aPheraFLEX", "Dymethazine" and "Methadrol" lacked the New Drug Application approvals required by 21 U.S.C. § 355;
3. Tribavus Enterprises LLC, d/b/a IForce Nutrition, introduced and delivered for introduction the unapproved new drugs "17aPheraFLEX", "Dymethazine" and "Methadrol" into

interstate commerce; and

4. Tribavus Enterprises LLC, d/b/a IForce Nutrition, acted with the intent to defraud and mislead.

B. Factual Basis. If this matter were to proceed to trial, the Government and the defendant agree that the following facts would be proven beyond a reasonable doubt:

Beginning in approximately July 2007, and continuing until September 24, 2009, Tribavus Enterprises LLC, d/b/a IForce Nutrition, knowingly caused to be manufactured and distributed in interstate commerce the purported dietary supplements, "17aPheraFLEX", "Dymethazine" and "Methadrol". Analysis performed by the FDA's Forensic Chemistry Center determined "17aPheraFLEX" contained the synthetic anabolic steroid desoxymethyltestosterone, also known as "DMT" and "Madol"; "Dymethazine" and "Methadrol" were found to contain the synthetic steroid methasterone, also known as methasteron and methyldrostanolone, and commonly referred to in the industry as "Superdrol". Thus, these products were actually drugs that were not approved by the Food and Drug Administration.

IForce Nutrition knowingly and intentionally labeled "17aPheraFLEX", "Dymethazine", and "Methadrol" in a manner that was meant to mislead and deceive consumers and the Food and Drug Administration. IForce Nutrition labeled, marketed and distributed these products as "dietary supplements," when in fact, the active ingredients were unapproved drugs and synthetic steroids, and thus did not meet the legal definition of a dietary supplement (21 U.S.C. §321(ff)).

IForce Nutrition is located in Vista, California. IForce Nutrition distributed "17aPheraFLEX", "Dymethazine", and "Methadrol" to a large Internet-based retailer that has its headquarters in Meridian, ID, and maintains warehouses in Boise, Idaho, and elsewhere. From

on or about July 2007 to on or about September 24, 2009, IForce Nutrition caused "17aPheraFLEX", "Dymethazine" and "Methadrol" to be shipped from California to this retailer's warehouses in Boise, Idaho, and elsewhere. IForce Nutrition distributed approximately 2,828 bottles of these products to these warehouses in Boise, Idaho, and elsewhere which resulted in approximately \$120,000 in gross revenue for IForce Nutrition. "17aPheraFLEX", "Dymethazine" and "Methadrol" were subsequently distributed throughout the United States and the world.

During all times relevant to the distributions in this case, IForce Nutrition was owned by Tribavus Enterprises, LLC. David Nelson, who owns ninety-five percent of Tribavus Enterprises, LLC, has authority to bind Tribavus Enterprises, LLC/IForce Nutrition.

IV. SENTENCING FACTORS

A. Maximum Penalties. A violation of 21 U.S.C. §§ 331(d), 333(a)(2), as charged in Count One, is punishable by a maximum fine of \$500,000 (18 U.S.C. § 3571), a maximum term of supervised release of three years, and a mandatory special assessment of \$400.00.

B. Fines and Costs. The parties agree that a fine of \$125,000, payable in installments as set forth in paragraph VB3 below, is the appropriate fine in this case.

C. Special Assessment. The defendant will pay the special assessment(s) before sentencing and will furnish a receipt at sentencing. Payment will be made to the United States District Court, Clerk's Office, Federal Building and United States Courthouse, 550 West Fort Street, Fourth Floor, Boise, Idaho 83724.

D. Restitution. The parties anticipate no restitution in this case.

V. UNITED STATES SENTENCING GUIDELINES

A. Application of Sentencing Guidelines. The Court must consider the United States Sentencing Guidelines (U.S.S.G.) in determining an appropriate sentence under 18 U.S.C. § 3553. The relevant guidelines are found at U.S.S.G. §§ 2N2.1(c)(1) and 2B1.1. The defendant agrees that the Court may consider “relevant conduct” in determining a sentence pursuant to U.S.S.G. § 1B1.3.

The Court is not a party to the Plea Agreement. The Plea Agreement does not bind the Court's determination of Sentencing Guidelines range. The Court will identify the factors that will determine the sentencing range under the Sentencing Guidelines. While the Court may take the defendant's cooperation, if any, and the recommendations of the parties into account, the Court has complete discretion to impose any lawful sentence, including the maximum sentence possible.

Recognizing that the Court is not bound by this Agreement, the parties agree to the recommendations and requests set forth below.

B. Sentencing Guidelines Recommendations and Requests.

1. **Acceptance of Responsibility.** If the defendant clearly accepts responsibility for the offense, the defendant will be entitled to a reduction of two levels in the combined adjusted offense level, under U.S.S.G. § 3E1.1(a). The Government will move for an additional one-level reduction in the combined offense level under § 3E1.1(b) if the following conditions are met: (1) the defendant qualifies for a decrease under § 3E1.1(a); (2) the offense is level 16 or greater; and (3) the defendant has timely notified authorities of the defendant's intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial

and permitting the Court to allocate its resources efficiently. If, before sentence is imposed, the defendant fails to meet the criteria set out in U.S.S.G. § 3E1.1, or acts in a manner inconsistent with acceptance of responsibility, the Government will withdraw or not make such a recommendation.

2. **Joint Sentencing Recommendation.** The United States and the defendant agree to recommend that the defendant be sentenced to a \$125,000 fine, three years of supervised release; and a \$400 mandatory special assessment.

3. **Joint Recommendation for Fine Payment Schedule.** The parties jointly recommend that the Court impose the following fine payment schedule:

a. Beginning January 15, 2011, Tribavus Enterprises, LLC, d/b/a IForce Nutrition will pay \$1,000 each month for eight months;

b. Beginning September 15, 2011, Tribavus Enterprises, LLC, d/b/a IForce Nutrition will pay \$3,000 per month for six months;

c. Beginning March 15, 2012, Tribavus Enterprises, LLC, d/b/a IForce Nutrition will pay \$4,000 per month for six months;

d. On September 15, 2012, Tribavus Enterprises, LLC, d/b/a IForce Nutrition will pay \$50,000 in one lump sum; and

e. On March 15, 2013, Tribavus Enterprises, LLC, d/b/a IForce Nutrition will pay the balance of the fine, \$25,000, in one lump sum.

4. **Joint Agreement for Testing Procedures as a Part of**

Supervised Release. Tribavus Enterprises LLC, d/b/a IForce

Nutrition, LLC and any other continuing entities operated or controlled by the officers or principals of IForce agree to monitor and test all products distributed by those companies for a period of five years. "Monitoring and testing" shall include, but is not limited to:

- (1) the sampling and analysis for contamination with banned steroids,
- (2) at the defendant's expense,
- (3) by a reputable independent testing organization involved in the testing and/or certification of food, water, dietary supplements, and other consumer goods,
- (4) every lot or batch of finished product intended for sale, unless that lot or batch contains only raw materials that have been tested in a prior lot(s) or batch(es).

"Banned steroids" shall mean the "Tren" (also known as 19-Norandrosta 4,9 diene- 3,17 dione or Estra-4,9-dien-3,17-dione) substance and the steroidal compounds included in the World Anti-Doping Code's Prohibited List, as it exists at the time of testing, excluding DHEA and metabolites specific only to urinalysis.

As part of the defendant's contract with the independent third party testing organization, the defendant shall instruct that organization, upon request, to provide the results of all monitoring and testing directly to the agreed upon District Office of the FDA at the same time it provides those results to the defendant. IForce and any other continuing entities operated or controlled by its principals will not introduce into interstate commerce any product unless and until the monitoring and testing results of that specific lot of product has been received from the independent third party testing organization.

The independent third party testing and monitoring associated with this agreement is separate from and in addition to any monitoring, testing or record-keeping required by relevant statutes or regulations. This monitoring and testing is also separate from, and in addition to, any inspections, sampling, testing, or other regulatory actions authorized by statute or regulation.

VI. WAIVER OF APPEAL AND 28 U.S.C. § 2255 RIGHTS

A. In exchange for this Agreement, and except as provided in subparagraph B, the defendant waives any right to appeal or collaterally to attack the conviction, entry of judgment, and sentence.

The defendant acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the defendant might file challenging the plea, conviction or sentence in this case. Further, if the defendant violates this waiver it will be a breach of this Agreement and the Government may withdraw from this Plea Agreement and take other remedial action.

If the defendant believes the Government has not fulfilled its obligations under this Agreement, the defendant will object at the time of sentencing; further objections are waived.

B. Notwithstanding subparagraph A, the defendant shall retain the right to file one direct appeal only if one of the following unusual circumstances occurs; the defendant understands that these circumstances occur rarely and that in most cases this Agreement constitutes a complete waiver of all appellate rights:

1. the sentence imposed by the District Court exceeds the statutory maximum;
2. the District Court arrived at an advisory Sentencing Guidelines range by applying an upward departure under Chapter 5K of the Guidelines; or

3. the District Court exercised its discretion under 18 U.S.C. § 3553(a) to impose a sentence that exceeds the advisory Sentencing Guidelines range as determined by the District Court.

4. the sentence is unreasonable based on an incorrect application of the Sentencing Guidelines to which the defendant filed a proper and timely objection.

Notwithstanding subparagraph A, the defendant may file one habeas petition (motion under 28 U.S.C. § 2255) for ineffective assistance of counsel only if: (1) the motion is based solely on information not known to the defendant at the time the District Court imposed sentence; and (2) in the exercise of reasonable diligence, the information could not have been known by the defendant at that time.

VII. PROVIDING INFORMATION FOR THE PRESENTENCE REPORT

The defendant agrees to provide material financial and other information requested by a representative of the United States Probation Office for use in preparing a presentence report. Failure to execute releases and provide such information violates this Agreement. Such failure will subject the defendant to additional penalties, including an enhancement under U.S.S.G. § 3C1.1, or an upward departure under § 5K2.0, and relieve the Government of the obligations in this Agreement. Such failure will not, however, constitute grounds for withdrawing the plea of guilty unless the Government so requests.

VIII. NO RIGHT TO WITHDRAW PLEA

The defendant understands that the Court may not follow the recommendations or requests made by the parties at the time of sentencing. The defendant cannot withdraw from this Plea Agreement or the guilty plea, regardless of the Court's actions.

IX. CONSEQUENCES OF VIOLATING AGREEMENT

A. Government's Options. If the defendant fails to keep any promise in this Agreement or commits a new crime, the Government is relieved of any obligation not to prosecute the defendant on other charges, including charges not pursued due to this Plea Agreement. Such charges may be brought without prior notice. In addition, if the Government determines after sentence is imposed that the defendant's breach of the Agreement warrants further prosecution, the Government may choose between letting the conviction(s) under this Plea Agreement stand or vacating such conviction(s) so that such charge(s) may be re-prosecuted. If the Government determines that a breach warrants prosecution before sentencing, it may withdraw from the Plea Agreement in its entirety.

B. Defendant's Waiver of Rights. If the defendant fails to keep any promise made in this Agreement, the defendant gives up the right not to be placed twice in jeopardy for the offense(s) to which the defendant entered a plea of guilty or which were dismissed under this Agreement. In addition, for any charge that is brought as a result of the defendant's failure to keep this Agreement, the defendant gives up: (1) any right under the Constitution and laws of the United States to be charged or tried in a more speedy manner; and (2) the right to be charged within the applicable statute of limitations period if the statute of limitations expired after the defendant entered into this Agreement.

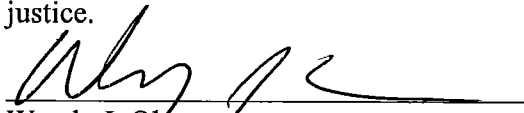
Furthermore, if the defendant does not enter an acceptable plea, the Government will move to continue the trial now set to allow the Government adequate time to prepare. The defendant agrees not to contest such a continuance, and agrees that the resulting delay would be excludable time under 18 U.S.C. § 3161(h)(1)(I), (h)(3)(A), or (h)(8)(A).

X. MISCELLANEOUS


A. No Other Terms. This Agreement is the complete understanding between the parties, and no other promises have been made by the Government to the defendant or to the attorney for the defendant. This Agreement does not prevent any governmental agency from pursuing civil or administrative actions against the defendant, its principals, or any property. Unless an exception to this paragraph is explicitly set forth elsewhere in this document, this Agreement does not bind or obligate governmental entities other than the United States Attorney's Office for the District of Idaho. The Government will bring the defendant's cooperation and pleas to the attention of other prosecuting authorities at the defendant's or defendant's counsel's request.

XI. UNITED STATES' APPROVAL

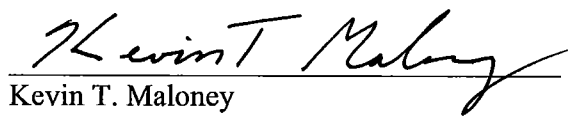
I have reviewed this matter and the Plea Agreement. I agree on behalf of the United States that the terms and conditions set forth above are appropriate and are in the best interests of justice.


Wendy J. Olson
United States Attorney

1/14/2011
Date


Syrena C. Hargrove
Assistant United States Attorney

1/14/11
Date


Kevin T. Maloney
Assistant United States Attorney

1-14-11
Date

XII. ACCEPTANCE BY DEFENDANT AND COUNSEL

I have read and carefully reviewed every part of this Plea Agreement with my attorney. I understand the Agreement and its effect upon my potential sentence. Furthermore, I have discussed all of my rights with my attorney and I understand those rights. No other promises or inducements have been made to me, directly or indirectly, by any agent of the Government, including any Assistant United States Attorney, concerning the plea to be entered in this case. In addition, no one has threatened or coerced me to do, or to refrain from doing, anything in connection with this case, including to enter a guilty plea. I am satisfied with my attorney's advice and representation in this case.

[The signatures of the defendant and his attorney are attached on the following page, which reflects that it is page 19. There are no missing pages. The page discrepancy is due to conversion of the document between Word and WordPerfect. Some formatting was corrected after the defendant signed the document. The defendant and his attorney consent to the formatting changes and approve the attachment of the signature page in this manner.]



1/10/2011

DAVID NELSON

Date

Representative for Defendant

Tribravus Enterprises, LLC, d/b/a

I FORCE Nutrition, LLC

I have read this Plea Agreement and have discussed the contents of the Agreement with my client. The Plea Agreement accurately sets forth the entirety of the Agreement. I concur in my client's decision to plead guilty as set forth above.



1/13/2011

Rick Collins

Date

Attorney for the Defendant

Charles F. Peterson ISB No. 3346
PETERSON LAW OFFICES
913 W. River Street, Suite 420
Boise, Idaho 83702-7081
Telephone (208) 342-4633
FAX (208) 336-2059

Richard D. Collins
COLLINS, McDONALD & GANN, P.C.
138 Mineola Boulevard
Mineola, New York 11501

Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

Case No. CR-11-0018-S-BLW

AFFIDAVIT OF DAVID NELSON

vs.

TRIBRAVUS ENTRPRISES, LLC., d.b.a.
IFORCE NUTRITION,

Defendant.

David Nelson, being duly sworn, does hereby depose and say:

1. That I, David Nelson, am President and Majority Shareholder of Tribravus Enterprises LLC, d/b/a IFORCE Nutrition ("Defendant corporation"), located at 1305 Hot Spring Way, Suite 103, Vista, CA 92081 and that I am fully authorized to speak and act on behalf of the Defendant corporation.

2. That Tribravus Enterprises LLC, d/b/a IFORCE Nutrition, LLC, entered a plea of guilty to the introduction and delivery for introduction of unapproved new drugs into interstate commerce with the intent to defraud and mislead [21 USC 331(d) and 333(a)(2)] on January 20, 2011, before the Honorable U.S. Magistrate Bush in the Federal District of Idaho. The matter is awaiting sentence.

3. That I am aware that the offense is a federal felony, and that as a principal of the Defendant corporation I understand that I have the right to be present at all stages of the proceedings, including sentence.


AFFIDAVIT OF DAVID NELSON - 1

Macintosh HD:Users:pattystradley:Dropbox:Cases:IFORCE NUTRITION:Pleadings:110126 Affidavit of David Nelson.doc

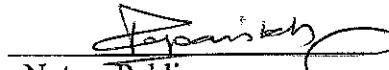
4. That I fully understand all aspects and provisions of the negotiated Plea Agreement, including the recommended sentence which awaits the approval of the Court.

5. That I specifically waive my right to be physically present at the sentence of the Defendant corporation in this matter.

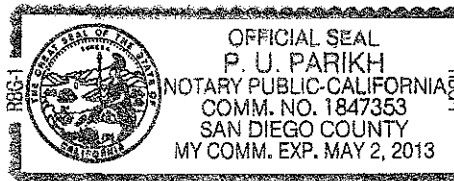
6. That I authorize Charles F. Peterson, Esq., or his designee, to appear on behalf of Defendant corporation, and in my absence as its principal, in this matter for all purposes including sentence.


David Nelson

SUBSCRIBED AND SWORN to before me as of the 8th day of February, 2011.


Notary Public

My commission expires: May 2, 2013



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of Feb, 2011, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

- ☐ U.S. Mail, Postage Prepaid
- ☐ Express Mail
- ☐ Hand Delivery
- ☐ Facsimile Transmission --
- ☐ Federal Express
- ☒ Electronic Transmission

Wendy Olson
United States Attorney
Kevin T. Maloney
Assistant United States Attorney
Washington Group Plaza IV, Suite 500
800 East Park Boulevard
Boise, ID 83712

//s//

Charles F. Peterson

UNITED STATES DISTRICT COURT

District of Idaho

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

TRIBRAVUS ENTERPRISES, LLC
dba IForce Nutrition

Case Number: 1:11-CR-00018-001-BLW

USM Number:

Charles Peterson, Jr.
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 § 331(d)	Introduction and Delivery for Introduction of Unapproved New Drugs With the Intent to Defraud or Mislead	09/24/2009	1

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

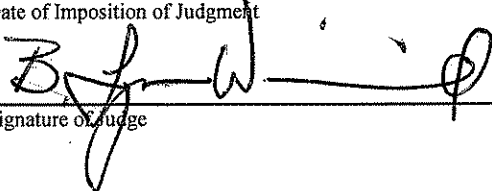
The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

05/05/2011

Date of Imposition of Judgment


Signature of Judge

B. Lynn Winmill, United States District Judge
Name and Title of Judge

5-6-2011
Date

DEFENDANT: TRIBRAVUS ENTERPRISES, LLC dba IForce Nutrition
CASE NUMBER: 1:11-CR-00018-001-BLW

PROBATION

The defendant is hereby sentenced to probation for a term of : Three (3) years

The defendant shall not commit another federal, state or local crime.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: TRIBRAVUS ENTERPRISES, LLC dba IForce Nutrition
CASE NUMBER: 1:11-CR-00018-001-BLW

SPECIAL CONDITIONS OF PROBATION

- 1) The Defendant shall submit to the search of the business upon demand by the probation officer, without the necessity of a warrant, and submit to seizure of any contraband found therein.
- 2) The Defendant shall provide the probation officer with access to any and all requested financial information.
- 3) The organization shall make periodic submissions, not less than quarterly, reporting on the organization's financial condition and results of business operations, and accounting for the disposition of funds received.
- 4) The organization shall comply with the rules and regulations of the Dietary Supplement Health and Education Act, the FDA and/or any agency with regulatory oversight.
- 5) The organization shall be required to notify the Court or probation officer immediately upon learning of (A) any material adverse change in its business or financial condition or prospects, or (B) the commencement of any bankruptcy proceedings, major civil litigation, criminal prosecution, or any investigation or formal inquiry by governmental authorities regarding the organization.
- 6) The Defendant shall comply with the Joint Agreement for Testing Procedures outlines in ¶ V.B.4 of the Plea Agreement. Monitoring and testing shall include, but is not limited to:
 - (1) the sampling and analysis for contamination with banned steroids,
 - (2) at the defendant's expense,
 - (3) by a reputable independent testing organization involved in the testing and/or certification of food, water, dietary supplements, and other consumer goods,
 - (4) every lot or batch of finished product intended for sale, unless that lot or batch contains only raw materials that have been tested in a prior lot(s) or batch(es).

Special conditions of probation shall supersede any standard condition that is inconsistent with the special conditions.

DEFENDANT: TRIBRAVUS ENTERPRISES, LLC dba IForce Nutrition
 CASE NUMBER: 1:11-CR-00018-001-BLW

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$ 125,000.00	\$

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(l), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS \$ _____ \$ _____

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☒ the interest requirement is waived for the ☒ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: TRIBRAVUS ENTERPRISES, LLC dba IForce Nutrition
 CASE NUMBER: 1:11-CR-00018-001-BLW

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
 \$400 special assessment is due immediately. Payments to be made to Clerk of the Court, District of Idaho, 550 W. Fort St., Boise, ID 83724. \$125,000 fine is due in accordance with the following schedule: \$1,000 each month 5/5/2011-12/5/2011; \$3,000 each month 1/5/2012-6/5/2012; \$4,000 each month 7/5/2012-12/5/2012; \$50,000 lump sum by 1/5/2013; \$25,000 final payment by 7/5/2013. This payment schedule will remain in effect unless further reviewed by the Court. A review may take place at any time and will be based upon a change in the defendant's financial circumstances.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.